

ORDINANCE NO. __

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA
ADDING CHAPTER 15.74 TO TITLE 15 OF THE LA HABRA MUNICIPAL
CODE ESTABLISHING A REQUIREMENT TO SUBMIT AND COMPLY WITH
A WASTE MANAGEMENT PLAN FOR CERTAIN CONSTRUCTION AND
DEMOLITION PROJECTS WITHIN THE CITY OF LA HABRA**

The People of the City of La Habra ordain as follows:

SUMMARY

Section 1. The purpose of this ordinance is to reduce landfill waste from construction and demolition activity by requiring those who undertake specific “covered projects” to divert, or recycle, a minimum of 50% of the construction and demolition debris resulting from their projects.

The following projects are “covered projects” under the ordinance: (1) Residential additions of 1,000 square feet or more of gross floor area; (2) Tenant improvements of 3,000 square feet or more of gross floor area; (3) New structures of 1,000 square feet or more of gross floor area; (4) Demolition of 1,000 square feet or more of gross floor area; (5) All City public works and construction projects which are awarded pursuant to the competitive bid procedure established by Chapter 4.20.040 of the La Habra Municipal Code.

Applicants for a covered project are required to submit a Waste Management Plan (WMP) along with the application for a construction and demolition permit and to submit a Recycling Report prior to the final building inspection.

Ordinance No. ____ shall take effect 30 days following its publication by title and summary.

Title 15 of the La Habra Municipal Code is amending by adding a new Chapter 15.74 to read:

Chapter 15.74

**WASTE MANAGEMENT PLAN FOR CERTAIN CONSTRUCTION AND
DEMOLITION PROJECTS WITHIN THE CITY OF LA HABRA**

Sections:

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- 15.74.070 Prosecution of violations.
- 15.74.075 Penalties and administrative proceedings.
- 15.74.080 Severability.

15.74.010 Short title.

This ordinance shall be known and designated as the ‘construction and demolition waste management’ ordinance.

15.74.015 Purposes of ordinance.

The purpose of this ordinance is to reduce landfill waste by requiring an applicant for every “covered project” to divert a minimum of 50% of the construction and demolition debris resulting from that project in compliance with state and local statutory goals and policies and to create a mechanism to secure compliance with the stated diversion requirements.

15.74.020 Definitions

For the purposes of this chapter, the following definitions shall apply:

A. “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the city for any permit, as defined in this chapter, and who is, therefore, responsible for meeting the requirements of this chapter.

B. “Completion” means the earliest of the following dates: the date a temporary certificate of occupancy is issued by the city for a project, the date a certificate of occupancy is issued by the city for a project, or the date the final city inspection approving the project is completed.

C. “Construction” means the building or enlargement of any structure, or any portion thereof, and includes without limitation alterations or improvements to an existing structure.

D. “Construction and demolition debris” means the excess or discarded materials, which are removed from a site during or after the construction or demolition of any structure, fence, wall, or paving.

E. “Conversion rate” means the rate set forth in the standardized conversion rate table for use in estimating the volume or weight of construction and demolition debris, approved by the California Integrated Waste Management Board.

F. “Covered project” means any project meeting the thresholds referenced in the Summary.

G. “Demolition” means the razing, tearing down or wrecking of any structure, wall, fence or paving, whether in whole or in part, whether interior or exterior.

H. “Deconstruct” and “deconstruction” mean the careful and systematic dismantling of a structure in order to salvage materials for diversion.

I. “Director” means the Director of Public Works.

J. “Divert” and “diversion” means the reuse of construction and demolition debris to avoid disposal in a landfill.

K. “Diversion requirement” means the diversion of a minimum of 50% of the total construction and demolition debris generated by a project, or the lower percentage requirement granted by exception pursuant to Section 15.74.075.

L. “Paving” means driveways, walkways, parking areas, streets and sidewalks.

M. “Performance security” means cash, certified or cashiers’ check, certificate of deposit, a letter of credit or other security in a form approved by the Director of Public Works.

N. “Permit” means any building or demolition permit.

O. “Project” means any proposal for new or changed use, or for new construction, alteration or enlargement of any structure, that requires a permit from the City of La Habra.

P. “Recycling” and “reuse” mean the process of collecting, sorting, cleansing, treating, and reconstituting construction and demolition debris that would otherwise be disposed of in a landfill for use as raw material for, new, reused, or reconstituted products which meet industry standards.

Q. “Structure” means anything constructed or erected that requires a location in the ground, including a building or swimming pool, but not including a fence or wall used as a fence, or driveways, or walkways.

R. “Waste management plan” means an application packet approved by the Director of Public Works for the purpose of reviewing project compliance of this chapter.

S. “ Waste management plan compliance official” means the administrator of the Refuse Division of the Department of Public Works.

15.74.025 Application of chapter to covered projects.

A. Unless otherwise exempt under Section 15.74.035, projects by the city or by any applicant meeting the following thresholds shall be considered covered projects, shall meet the diversion requirement and shall comply with all provisions of this chapter:

1. Residential additions of 1,000 square feet or more of gross floor area;
2. Tenant improvements of 3,000 square feet or more of gross floor area;
3. New structures of 1,000 square feet or more of gross floor area;
4. Demolition of 1,000 square feet or more of gross floor area; and
5. All city public works and city public construction projects, which are awarded pursuant to the competitive bidding procedure, established by Chapter 4.20.040 of this code.

B. Compliance with the provisions of this chapter shall be listed as a condition of approval on all building or demolition permits issued for a covered project.

15.74.030 Required diversion rates.

The applicant for a covered project shall divert a minimum of 50% of the construction and demolition debris resulting from the project.

15.74.035 Projects exempt from this chapter.

The following projects are exempt from the requirements of this chapter:

A. Immediate or emergency demolition required to protect the public health, safety or welfare, as determined by any public safety official or code compliance officer of the city given prior to demolition.

B. Projects in any single-family residential district, which consist solely of either an accessory structure or a swimming pool.

C. A project for which an exception, conditional use permit or design review approval has been obtained from the city prior to the effective date of this ordinance.

D. A project for which a valid building permit has been lawfully issued by the city prior to the effective date of this ordinance.

E. A project of city public works or city public construction for which the notice inviting bids has been published pursuant to Chapter 4.20.040 of this code prior to the effective date of this ordinance.

15.74.040 Waste Management Plan requirements

All applicants for covered projects shall complete and submit a waste management plan as part of the application packet for a permit issued for a covered project. The waste management plan shall include the following information, calculated with the conversion rate, and shall be attested by the applicant, under penalty of perjury, as true and correct for all stated facts and as a best estimate based on all information reasonably available about the project, where all of the facts cannot be ascertained:

1. The estimated volume or weight of construction and demolition debris, listed for each material;
2. The estimated volume or weight of construction and demolition debris that can be diverted listed for each material;
3. The estimated volume or weight of construction and demolition debris that will be landfilled as solid waste;
4. The identification of the vendor or facility that will collect or receive the construction or demolition debris or that will deconstruct the structure, and;
5. The estimated date on which demolition or construction is to commence.

15.74.045 Review of Waste Management Plan.

A. Time for Review. A waste management plan shall be approved or denied no later than 15 business days after a complete application is made. The approval may be based on imposed conditions reasonably necessary to meet the standards of this chapter.

B. Approval. Notwithstanding any other provision of this chapter, no permit shall be issued for any covered project unless and until the waste management plan has been approved, based upon the following findings by the waste management plan compliance official.

1. All of the information required by Section 15.74.040 has been provided;
2. The plan establishes a mechanism such that the diversion requirement shall be met; and
3. Denial. If the waste management plan compliance official denies the waste management plan, the grounds for denial shall be clearly stated, in writing.

15.74.050 Waste management compliance reporting.

A. Final Report. No later than 30 days from the completion of a covered project, the applicant shall submit a compliance reporting form, under penalty of perjury, to the waste management compliance official. The form shall include the following information:

1. The dates demolition and construction actually commenced;
2. The actual volume or weight of construction and demolition debris, listed for each material;
3. The actual volume or weight of construction and demolition debris that was diverted listed for each material;
4. A specification of the method used to determine the volume and weights and a certification that the method used was the most accurate, commercially reasonable method available; and
5. Original receipts from all vendors and facilities, which collected or received construction and demolition debris, indicating actual weights and volumes received by each.

15.74.55 Exception from compliance with this chapter.

Prior to commencing demolition or construction, an applicant wishing relief from the requirements of this chapter may seek an exception, partial or complete, from the requirements of this chapter through the following process:

A. Initiation. This exception process shall be initiated by the filing of a complete exception application with the waste management plan compliance official. The waste management plan compliance official shall determine the completeness of the exception application within 5 business days of the filing of the application.

B. Definition on Application. Following consideration of the exception application, the waste management plan compliance official shall either make the required findings and take action on the application; shall state why the findings cannot be made and deny the application. A decision on the application shall be rendered within 10 business days following determination the application is complete.

C. Findings. All of the following findings must be made prior to the approval of an exception:

1. There are exceptional or extraordinary circumstances or conditions applicable to the project that does not apply generally to similar projects;

2. Granting the application will not constitute a grant of special privilege inconsistent with limitations imposed on like projects; and

3. Cost to the applicant of strict compliance with this chapter is not the primary reason for granting the exception.

15.74.060 Appeal

Any person or entity aggrieved by any decision or finding under the provisions of this chapter with respect to approving or to denying a waste management plan or to granting or denying an application for an exception from compliance with this chapter, may appeal such decision or finding. An appeal must be filed within 3 days after receipt of notice of any protested decision or finding by filing with the director of public works a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than 10 days after receipt of the letter of appeal. Appellant shall be given at least 5 days notice of the time and place of the hearing. A hearing officer, appointed by the city manager, shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the decision or finding should not be upheld. In all such cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision or finding appealed. At the conclusion of the hearing, the hearing officer shall make a final and conclusive determination.

15.74.065 Violation of this chapter

It shall be unlawful and a violation of this chapter to do any of the following:

- A. To willfully fail to comply with any provision of this chapter.
- B. To provide false or misleading information in any plan, report or document required in this chapter.
- C. To fail to meet the diversion requirement for any covered project.

15.74.070 Prosecution of violations

A violation of any provision of this chapter shall be prosecuted as a misdemeanor or infraction at the option of the city prosecutor and as further set forth in Section 15.74.075 with respect to penalties and administrative proceedings.

15.74.075 Penalties and administrative proceedings

A. Misdemeanors. Any person who violates any provision of Section 15.74.065(A) or (B) is guilty of a misdemeanor and shall be punished by fine or by imprisonment for a period of not more than 6 months or by both such fine and imprisonment.

B. Infractions. Any person who violates 15.74.065 (C) or any other provision of this chapter is guilty of an infraction and shall be punished by a fine. Each person

convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted. For violations of Section 15.74.065 (C), the violation shall be considered to commence on the date when demolition or construction first commenced. This date is presumed to begin on the commencement date provided by the applicant in the Waste Management Plan.

C. In addition to the penalty provision of subsections A and B of this section, violations of this chapter may be subject to fines, including, but not limited to, civil penalties, administrative fees, and other related charges as established by resolution of the city council.

15.74.080 Remedies not exclusive

To the maximum extent permitted by law, administrative remedies specified in this chapter are in addition to and do not supercede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

15.74.085 Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this chapter are declared to be severable.

Section 2. The city clerk shall certify the adoption of this ordinance and shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

Section 3. This ordinance shall take effect 30 days following publication by title and summary.